Chapter 374: RULES REGARDING THE TRAFFIC MOVEMENT STANDARD OF THE SITE LOCATION OF DEVELOPMENT LAW

1. Introduction. The Board recognizes the potential effects which many developments can have on existing traffic patterns and the need to assure that intersections and roads in the vicinity of proposed developments have the ability to provide safe and convenient access to and from the developments for traffic of all types.

This chapter contains rules relating to the traffic movement provisions of the Site Location of Development Law (Site Law), 38 M.R.S.A. §§ 481-490. It addresses standards, submissions and terms and conditions.

2. Definitions. As used in this chapter unless the context indicates otherwise, the following terms have the following meanings.

A. Business district. The portion of a municipality in which the dominant land use is for intense business activity. This district is characterized by large numbers of pedestrians, commercial vehicle boardings of goods and people, and a heavy demand for parking space. Some municipalities may have more than one business district.

B. Capacity analysis. A determination of the level of service of an intersection or roadway segment using the methodology described by the Transportation Research Board (TRB), a service of the National Research Council, in its "Highway Capacity Manual", Special Report 209 (1994).

C. Critical rate factor. The ratio of the actual accident rate at an intersection or road to the statistically calculated critical rate.

D. Delay. The time lost, measured in seconds per vehicle, while traffic is impeded by some element over which the driver has no control.

E. Development area. The site proposed for development, excluding all off-site roadway segments and intersections beyond the entrance or entrances.

F. Designated growth area. An area designated as a growth area in a locally adopted growth management plan that has been found by the State Planning Office to be consistent with Title 30-A, Chapter 187.

NOTE: Under 38 M.R.S.A. § 488, a development is exempt from review under the traffic movement standard if it is located within a designated growth area in a municipality having an adopted growth management program certified under 38 M.R.S.A. § 4348. The State Planning Office maintains a list of those communities in Maine found to have consistent plans and certified programs.

G. Entrance(s) and exit(s). An access way used by traffic movements of all types to or from properties abutting a highway or public way. As used herein, the terms include all driveways including private residential, commercial and other non-residential driveways. The terms do not

include a street within a subdivision. As used herein, the terms include the approaches thereto and the intersections created thereby even if such areas are state or local right of way.

H. Estimated annual average daily traffic. An estimate of the total yearly traffic volume divided by the number of days in the year.

I. Horizon year. The anticipated opening year of the proposed development, assuming build-out and full occupancy.

J. Level of service (LOS). A measure of the quality of the operating conditions within a traffic stream as determined from a capacity analysis, using the methodology described by the Transportation Research Board (TRB), a service of the National Research Council, in its "Highway Capacity Manual," Special Report 209 (1994).

K. Major intersection. An intersection controlled by a traffic signal, or the intersection of a state or state aid highway and the road on which the driveways for the development are located. The driveways are not to be considered a major intersection.

L. Passenger car equivalents (PCE's). The number of passenger cars or, in the case of non-passenger vehicles, the number of passenger cars that would be displaced by non-passenger car vehicles. One tractor-trailer combination is the equivalent of two passenger cars.

M. Passenger car equivalents at peak hour. The number of passenger cars or, in the case of non-passenger vehicles, the number of passenger cars that would be displaced by non-passenger car vehicles, that pass through an intersection or on a roadway under prevailing roadway and traffic conditions at that hour of the day during which the traffic volume generated by the development is higher than the volume during any other hour of the day. See 38 M.R.S.A. § 482 (3-C).

N. Peak-hour. The hour of the day during which the traffic volume at an intersection or on a roadway segment is higher than the volume during any other hour of the day.

O. Traffic accident. A motor vehicle accident that results in property damage exceeding $500 or physical injury of any type.

P. Traffic attributable to a development. Net new traffic that is generated as a result of a proposed development.

Q. Traffic movement of all types. Any mode of travel, including pedestrian, bicycle, bus, light rail, commuter rail, or automobile.

R. Traffic signal. A power-operated control device by which traffic is regulated, warned, or alternately directed to take specific actions.

S. Traffic study. A quantitative determination of the ability of existing roads and intersections in the vicinity of the proposed development to handle traffic attributable to the development.

T. Transportation demand management techniques. Measures taken to reduce or spread peak hour traffic over a longer period of time. Such measures include ridesharing, carpooling, vanpooling, mass transit and modified work schedules.

U. Trip. A single or one direction vehicle movement with either the origin or destination inside the development area.

3. General standards. The following standards must be met.

A. Design and operation. In determining whether the developer has made adequate provision for traffic movement of all types into and out of the development area, and in the vicinity of the development area, the department shall consider all relevant evidence to that effect, to ensure the safe and efficient flow of traffic. On-site design and operations are subject to review, to the extent necessary, to ensure that the development will not cause any delay or interference with the operation of adjacent roadways. The development must be located and designed so that the roads and intersections in the vicinity of the proposed development will have the ability to safely and efficiently handle the traffic increase attributable to the development at the time the development becomes fully operational.

B. Study horizon. The period for which the traffic impacts of a proposed development are to be assessed must be the projected year of build-out and full occupancy. If the proposed development is a multi-phase project with a projected build-out date of more than five (5) years after the year of the study, the Maine Department of Transportation (MDOT) may require a study of both the year of the opening of the first major phase and the year of build-out and full occupancy.

C. Unreasonable congestion. Level of Service D, as determined from a capacity analysis, is considered the minimum level of service needed to provide safe and convenient traffic movement. Where a road, intersection, or any approach lane to the specific intersection or intersections being evaluated in the vicinity of the proposed development is determined to operate at LOS E or LOS F in the horizon year, the proposed development is considered to result in unreasonable congestion, unless: Improvements will be made to raise the level of service of the road or intersection to D or above, except as otherwise provided in one or more of the paragraphs below.

(1) The level of service of the road or intersection will be raised to D or above through transportation demand management techniques.

(2) The department finds that it is not possible to raise the level of service of the road or intersection to D or above by road or intersection improvements or by transportation demand management techniques, but improvements will be made or transportation demand management techniques will be used such that the proposed development will not increase delay at a signalized or unsignalized intersection, or otherwise worsen the operational condition of the road or intersection in the horizon year.

(3) The department finds that improvements cannot reasonably be made because the road or intersection is located in a central business district or because implementation of the improvements will adversely affect a historic site as defined in 06-096 CMR 375(11) (Preservation of Historic Sites) and transportation demand management techniques will be implemented to the fullest extent practical.

(4) The development is located in a designated growth area, in which case the applicant shall be entitled to an exception from the level of service mitigation requirements set forth under the General Standards in this Section. This exception applies even if part or all of the traffic

impacts of the proposed development will occur outside the boundaries of the designated growth area. This exception does not exempt the development from meeting safety standards, and greater mitigation measures may be required than otherwise provided in this subsection if needed to address safety issues.

NOTE: 38 M.R.S.A. § 484 (2)(C) limits improvements to situations where the level of service to or in the vicinity of the development is or would be level of Service E or F, in which case improvements are limited only to those necessary to mitigate for foreseeable impacts of the development.

In order to qualify for the exception under this paragraph, the applicant shall submit to the department a statement from the town clerk of the municipality or municipalities in which the proposed development would be located certifying that the entire development area is located within the designated growth area for the municipality. The statement must include a copy of the segment of the municipality's comprehensive plan showing the designated growth area within which the proposed development would be located.

(5) In the case of unsignalized intersections, if traffic with the development in place would not meet the warrant criteria for signalization or turning lanes, as set forth in the Federal Highway Administration's "Manual on Uniform Traffic Control Devices," (1988), then the department may reduce the mitigation requirement for those measures so long as the resulting traffic conditions provide for safe traffic movement.

D. Unsafe conditions. Road segments, intersections, or development entrances and exits may be deemed as unsafe when traffic encounters conditions such as, limited sight distance or high accident locations. High accident locations are road segments or intersections where eight (8) or more accidents have occurred over the most recent three (3) year period, and the "critical rate factor" is greater than one (1.0). The applicant shall submit a proposal to improve or eliminate the unsafe conditions if they are determined to be created or exacerbated by the proposed development.

E. Baseline. A development requiring a permit on or after July 1, 1997 is subject to review of all traffic generated by the development in excess of a traffic baseline of July 1, 1997, or a maximum of ten years prior to the date of the permit application, whichever period is shorter. To determine the traffic baseline for a particular use or facility as of July 1, 1997, the department shall consider trip generation rates set forth by the Institute of Transportation Engineers (ITE), "Trip Generation," (1991); any trip generation study prepared by the applicant to determine conditions as of the baseline date; and any other relevant information. The baseline data will be used to determine the number of PCE's generated by the development for purposes of determining jurisdiction under this chapter.

4. Special provisions for 100-200 passenger car equivalents developments. Any person intending to construct or operate a development that is projected to generate between 100 and 200 PCE's during its peak hour of traffic generation shall, before commencing construction or operation, file an original and two copies of an application for traffic review identifying the size, nature and location of the development, together with such other information as may be required by Section 6(A) of this rule. If the applicant seeks an advance ruling under 38 M.R.S.A. § 485-A(1-B), the application for traffic

review must contain that request. The application must also identify whether the development will require a Site Law permit under any other of the definitions contained in 38 M.R.S.A. § 482(2).

NOTE: If the only reason a development is subject to review under the Site Law is because it generates 100 or more PCE's at the peak hour of its traffic generation, the department's review is limited to issues relevant to the traffic movement standard. Developments subject to review for other reasons, such as footprint or acreage, may be reviewed under other standards and may require a separate application form.

A. Limited review/scoping meeting. Upon receipt by the department of a traffic review application to construct or operate a development that meets the threshold of traffic generation set forth in this section, the department shall arrange and schedule a scoping meeting with the applicant to discuss the scope of potential traffic impacts to be studied and the type of proceeding warranted. The department shall invite representatives of the MDOT and the municipality or municipalities where the project is located and the applicant or appropriate representative. The applicant shall provide notice of such meeting to the abutting municipalities and to the regional council, as appropriate. For projects governed by this Section, the requirements of Chapter 2 (Rules Concerning The Processing of Applications) for a pre-application meeting, public informational meeting and pre-submission meeting do not apply.

After the scoping meeting, the MDOT shall recommend one of the following:

(1) That the applicant be issued a permit with no further study and no off-site mitigation because the development will not have a significant impact on roads or intersections in the vicinity of the proposed development. As part of the permit issued by the department in such a case, conditions may be attached for off-site mitigation without the need for any additional traffic study; or

(2) That the application requires further review and that additional information must be submitted for an analysis of whether the applicant meets the traffic standards.

NOTE: If the application is part of a larger application, no permit will be issued for traffic until it is issued for the entire project.

B. Vicinity for 100-200 passenger car equivalents developments. The vicinity of the proposed development, for projects generating 100-200 PCE's, is limited to the area defined by the development entrance(s) or exit(s), subject to the department's authority in consultation with MDOT to extend it to the first major intersection in each direction from the development entrance or entrances including intervening segments if the scoping meeting reveals potential safety, capacity, or other traffic-related issues affecting the type of review warranted.

5. Special provisions for over 200 passenger car equivalents developments. Any person intending to construct or operate a development that generates over 200 PCE's during its peak hour of traffic generation shall, before commencing construction or operation, file an original and two copies of an application for a "traffic only review", under the Site Law, with the department identifying the size, nature and location of the development, together with such other information as may be required by this chapter.

If the applicant seeks an advance ruling under 38 M.R.S.A. 485-A(1-B), the application must contain that request. The application must also identify whether the development will require a Site Law permit under any other type of development listed at 38 M.R.S.A. 482(2).

A. Scoping meeting. For an application of this type, a scoping meeting shall be held prior to the submittal of the application which takes the place of the pre-application meeting required by Chapter 2 (Rules Concerning the Processing of Applications). The department shall arrange and schedule such a meeting with the applicant to discuss the scope of potential traffic impacts to be studied and the type of proceeding warranted. The department shall invite representatives of MDOT, the municipality or municipalities where the project is located and the applicant or appropriate representative. The applicant shall provide notice of such meeting to the abutting municipalities and to the regional council, as appropriate. The purpose of this meeting is to help the applicant to understand the application review process, to identify particular areas of concern, and to exchange information before a commitment to a final design. For projects governed by this Section, the requirements of Chapter 2 (Rules Concerning The Processing of Applications) for a public informational meeting and pre-submission meeting do not apply.

B. Vicinity for over 200 passenger car equivalents developments. The vicinity of the proposed development, for projects generating more than 200 PCE's, is the area including and bordered by:

(1) The development entrance(s) or exit(s);

(2) The first major intersection in either direction from the development entrance(s) and exit(s); and

(3) All intersections where, during any one-hour period, traffic attributable to the proposed development equals or exceeds:

(a) 25 vehicles in a left-turn-only lane;

(b) 35 vehicles in a through lane, right-turn lane, or a combined through and right-turn lane; or

(c) 35 vehicles (multiplying the left-turn volume by 1.5) in a combined left-turn and through lane, or a combined left-turn, through and right-turn lane.

Generally, the vicinity as defined by the above criteria would be limited to a radius of 2 miles from the site unless the department, at the scoping meeting, with input from MDOT, determines that the proposed development will impair the safe and efficient flow of traffic beyond a two mile radius due to the development's scale, location, or nature.

6. Submissions. The applicant shall provide evidence affirmatively demonstrating that adequate provision for traffic movement of all types into and out of the development site has been made and that traffic attributable to the proposed development will not result in unreasonable congestion or unsafe conditions on roads and intersections in the vicinity of the proposed development.

A. Development generating 100-200 passenger car equivalents. In the case of a development generating between 100 and 200 PCE's during its peak hour of traffic generation, such evidence demonstrating that the project will only generate this amount of traffic must be submitted to the

department prior to scheduling the scoping meeting described in Section 4(A). The evidence submitted must include the following.

(1) Site and traffic information. All information required under Section 7(D), subsections 1-6, relating to site description, existing and proposed site use, site and vicinity boundaries, proposed uses in the vicinity of the proposed development, trip generation, and trip distribution.

(2) Traffic accidents. An inventory and analysis of traffic accidents occurring in the vicinity of the proposed development during the most recent 3-year period to identify high accident locations and their associated critical rate factors (see Section 3(D) of this chapter).

(3) Development entrances and exits. A description of the following;

(a) Entrance and exit location and design; and

(b) A plan view of each intersection created by the development. The plan view must show the names of the intersecting roads, the posted speed limit on the roads, the left and right sight distances, and the location of all driveways and roads located across from the development site.

(4**)** Title, right or interest. The department may consider an application only when an applicant has demonstrated sufficient title, right, or interest in all of the property which is proposed for development or use. An applicant shall demonstrate in writing sufficient title, right, or interest, in accordance with 06-096 CMR 372.

B. Development generating over 200 passenger car equivalents. The application for approval of a proposed development that will generate over 200 PCE's, or a development that the department has determined under Section 4(A)(2) may have significant off-site impacts, must include the following evidence.

(1) Traffic study. A traffic study if required under Section 7(A) below, or as determined in the scoping meeting with the department.

(2) Public or private rights-of-way. The location and width of proposed streets, easements, and other public or private rights-of-way.

(3) Development driveways. A detailed description of the following:

(a) Entrance and exit location and design; and

(b) A plan view of each intersection created by the development. The plan view must show the names of the intersecting roads, the posted speed limit on the roads, the left and right sight distances, and the location of all driveways and roads located across from the development site.

(4) Schedule. Estimated completion schedule for the development project.

(5) Title, right or interest. The department may consider an application only when an applicant has demonstrated sufficient title, right, or interest in all of the property which is proposed for

development or use. An applicant shall demonstrate in writing sufficient title, right, or interest, in accordance with 06-096 CMR 372.

7. Off-site traffic study

A. Study required. A study of roads and intersections in the vicinity of the proposed development must be conducted and submitted in report form if the development is expected to generate 200 or more PCE's during its peak hour of traffic generation or if determined necessary under Section 4(A)(2). In addition, the department may require, in consultation with the MDOT, that a traffic study be conducted because of traffic safety or capacity deficiencies in the vicinity of the proposed development, such as the following:

(1) Current traffic problems. Current traffic problems have been identified such as a high-accident location, inadequate intersection, an intersection in need of a traffic signal, or inadequate storage lane capacity for turning vehicles;

(2) Unsatisfactory level of service. The current or projected level of service of the roadway system adjacent to the development is unsatisfactory; or

(3) Other problems identified. Other specific problems or deficiencies have been clearly identified and documented by the MDOT or the municipality and may be affected by the proposed development or affect the ability of the development to be satisfactorily accommodated.

B. Preparation of traffic study. The traffic study, when required under subsection A above, must be prepared under the supervision of a Maine registered professional engineer having experience in traffic engineering.

C. Study horizon. The year for which the study results are to be characterized must be in accordance with the provisions of Section 3(B).

D. Elements of traffic study. At a minimum, the report of the traffic study must contain the following.

(1) Site description. A description of the physical characteristics of the development area. This section should identify the size of the parcel, the developable acreage of the parcel, general terrain features and unique terrain features.

(2) Existing and proposed site uses. A description of the existing and proposed uses of the development area.

(3) Site and vicinity boundaries. A regional map showing the development area and each road in the vicinity of the proposed development, as defined in Sections 2(E), 4(B) and 5(B) of this chapter. This map must also show other proposed development sites in the vicinity of the proposed development, including the location of their existing and proposed driveways to the extent such information is available.

(4) Proposed uses in the vicinity of the proposed development. A description of traffic increases that are expected from sources other than the proposed development and that are highly likely to occur in the vicinity of the proposed development during the study period. At a minimum,

the study must identify development or redevelopment proposals which have been approved, either locally or by the department, provided such approvals have not lapsed, and development or redevelopment proposals for which complete applications have been filed with and accepted by a local reviewing authority or the department provided the applicant is actively pursuing the application. If a local reviewing authority or the department has requested from an applicant additional information or submittals necessary to complete the processing of an application but has not received such information within 90 days of the request, that applicant shall be deemed not to be actively pursuing the application.

(5) Trip generation. Trip generation calculations for the proposed development and for other proposed development and redevelopment projects in the vicinity of the proposed development. Trip generation must be calculated using the most recent data contained in the Institute of Transportation Engineers' (ITE) Trip Generation Guide. If ITE data is not available for the proposed land use, trip generation must be estimated in accordance with a methodology approved by the MDOT. The trip generation data must be presented in a summary table listing each type of land use, the size involved, the average trip generation rate used (total daily traffic and a.m. /p.m. peaks), and the resultant total trips generated.

NOTE: In determining the number of new trips attributable to a development proposal, the number of trips entering and exiting the development area may be adjusted to account for trips that are "captured" from trips already being made to other existing developments in the vicinity of the development, or trips that are passing by the development entrance on the way from one place to another. If pass-by trips are a major consideration for the development proposal in question, studies and interviews at similar local developments must be conducted or referenced.

(6) Trip distribution. A description and diagram of the anticipated distribution of traffic entering and exiting the proposed development area.

(7) Trip assignment. A description and diagram of the anticipated utilization of roads and intersections in the vicinity of the proposed development by traffic attributable to the development. Distribution and assignment of trips must be based on population trends, surrounding land uses, the condition of roadways, market analyses and other relevant data. The technical analysis steps, basic methods, and assumptions used in this work must be clearly stated.

(8) Existing and projected traffic volumes. A diagram of the traffic volume on roads and intersections in the vicinity of the proposed development for the estimated a.m. and p.m. peak hour traffic (including turns during the peak hour) unless determined by the MDOT at the scoping meeting or pre-application meeting that another approach or period of time would produce a more accurate result. Traffic diagrams must show the following.

(a) Existing traffic volume based on actual counts taken within two years of the study unless otherwise approved by the MDOT.

(b) Traffic attributable to other development projects that are proposed or approved but are not operational at the time the traffic counts are made. An applicant must consider:

(i) Approved projects, provided the permit has not lapsed and has not been extended more than once;

(ii) Advance department rulings and planning permits, subject to the specific terms of those rulings or permits; and

(iii) Proposed projects for which complete applications have been filed and accepted, provided the applicant is actively pursuing the application as defined in Section 7(D)(4).

(c) Traffic attributable to the proposed development assuming build-out and full occupancy.

(d) Traffic attributable to the proposed development during its peak hour of traffic generation.

(e) Projected traffic volume for the design hour at the time the development will begin operation, assuming build-out and full occupancy of the proposed development.

Documentation, including all new traffic counts and analysis worksheets, as to how the various volumes were derived must accompany the diagrams. Computer techniques and the associated printouts can be used as part of the report.

Build-out projections must include volume projections for background traffic growth. Methods used to determine background traffic volumes include the use of existing projections in comprehensive plans and typical annual growth rates.

All traffic counts must be actual counts whenever possible. Traffic counts from the MDOT may be used if not more than two years old unless otherwise approved by the MDOT.

(9) Capacity analyses. A capacity analysis must be performed to determine the level of service for each road and intersection in the vicinity of the proposed development. Capacity calculations must be made for the estimated 30th highest hour of traffic during the build-out year, or any other appropriate design hour approved by the MDOT. Where it is shown that the capacity analysis methodology will not accurately measure operating conditions at a road or intersection, the department may require an applicant to analyze operating conditions of an intersection or road using another methodology acceptable to the MDOT. In the case where a particular intersection being evaluated is part of an interconnected signal system the applicant may, at the discretion of the MDOT, be required to include the analysis of the interconnected system in the evaluation.

The department recognizes that the level of service of some roads and intersections cannot be accurately determined using only the standard capacity analysis method. In such cases, the appropriate analytical technique will be determined in consultation with the MDOT.

(10) Traffic signals. The need for new traffic signals in the vicinity of the proposed development must be checked using the warrants in the Manual on Uniform Traffic Control Devices, U.S. Department of Transportation, Federal Highway Administration (Washington, D.C., 1988).

The signal warrants in the Manual on Uniform Traffic Control Devices (MUTCD) are not the sole criteria used to determine the need for new traffic signals. Although an intersection may meet the MUTCD warrants, the MDOT may determine that a signal is not appropriate.

(11) Sight distance analyses. A determination of the available sight distance in all directions at each intersection in the vicinity of the proposed development. Intersection sight distance is the length of roadway visible to the driver. It must be measured from the intersection (at a point 10 feet back from the edge of the travel way) to the centerline of the opposing lane(s), assuming a height of eye of 3.5 feet and a height of object of 4.25 feet.

(12) Traffic accidents. An inventory and analysis of traffic accidents in the vicinity of the proposed development during the most recent 3-year period. The inventory must include:

(a) A listing of the critical rate factor for each road and intersection in the vicinity of the proposed development;

(b) Identification of high accident locations (see Section 3D of this chapter);

(c) Collision diagrams for each high accident location identified; and

(d) Identification of feasible countermeasures based on discernible accident pattern at any high accident location.

(13) Recommendations. If the study analyses indicate that unsatisfactory levels of services (see Section 3C of this chapter) or unsafe conditions exist or will occur at intersections or on roads in the vicinity of the proposed development, a description of the measures proposed to remedy the deficiencies, including the following.

(a) Recommended improvements. A description and diagram of the location, nature, and extent of recommended improvements to roads and intersections in the vicinity of the proposed development. Of the recommended improvements, identify those proposed for implementation.

(b) Capacity analysis after improvement. A description of the anticipated results of making these improvements.

(c) Section 3(C)(5) exception. If the proposed development is entitled to an exception under Section 3(C)(5), the descriptions provided pursuant to (a) and (b) may be limited to the improvements necessary to provide safe conditions and the level of service required under Section 3(C)(5).

(14) Conclusion. A clear, concise description of the study findings.

8. Design requirements

A. General. The minimum design criteria of this section must be met or exceeded unless:

(1) Conflict with municipal standards. Specific provisions of the design criteria of this section conflict with specific provisions of duly enacted municipal standards for roads and entrances and the applicant requests that the specific municipal standard be applied and it can be

demonstrated that the alternative follows generally accepted engineering techniques and will allow safe and efficient traffic movement; or

(2) Variance. The applicant demonstrates that proposals which vary from the criteria of this section will allow safe, adequate and convenient movement of traffic of all types into and out of the development site. Applications for approval of roadway and entrance plans that vary from the requirements of this section must identify the criteria that will not be met, specify the proposed alternative, and set forth such evidence as is necessary to affirmatively demonstrate that the alternative is in accordance with generally accepted engineering design practices and will allow safe and convenient traffic movement. Generally accepted engineering design guidelines and practices for roads, entrances and exits include the following:

(a) The American Association of State Highway and Transportation Officials (AASHTO) "A Policy on Geometric Design of Highways and Streets", 1990;

(b) The Institute of Transportation Engineers, "Transportation and Land Development", 1988;

(c) The Maine Department of Transportation, "Highway Design Guide", January 1994;

(d) The Maine Department of Transportation, "Access Management - Improving The Efficiency of Maine Arterials", 1994; and

(e) "Traffic Engineering for Neo-Traditional Neighborhood Design", An Informational Report, ITE Technical Committee 5P-8, February 1994.

B. Design criteria for roads. The geometric design standards contained in the MDOT's "Highway Design Guide, January 1994" must be applied to all new construction, reconstruction and major rehabilitation projects not on the National Highway System. AASHTO guidelines must be used on all new construction, reconstruction and major rehabilitation projects on the National Highway System. Route continuity must be considered when determining widths for any particular project. When using the AASHTO guidelines, the minimum AASHTO design guideline must be considered the desired guideline.

C. Design criteria for entrances and exits

(l) Identification. Entrances and exits must be clearly identified by the use of signs, curb cuts, raised medians, and landscaping as appropriate.

(2) Design approval. The entrance and exit design must be reviewed and approved by the MDOT if the entrance will be located on a state or state-aid highway.

(3) General design considerations. The design of all entrances and exits associated with a proposed development must include, at a minimum, consideration of the following:

(a) Safe sight distance;

(b) Maximum number of driveways per lot;

(c) Minimum distance between driveways and side streets (corner clearance);

(d) Minimum distance between driveway;

(e) Turn radius and driveway width;

(f) Approach grades;

(g) Auxiliary turning lanes (right-turn lanes, left-turn lanes); and

(h) Driveway throat length.

(4) Miscellaneous requirements

(a) Lighting. Lighting must highlight the driveways of the development. Parking areas must be designed to prevent vehicle lights from shining onto adjacent roadways by using parking orientation, buffers, or other effective measures.

(b) Interference with adjacent roadways.

(i) Sufficient parking facilities must be provided within and adjacent to the development site to meet the parking needs of the development. Parking facilities include on-street parking, access to off-street parking lots, parking lots, loading and unloading space, and circulation aisles and corridors.

(ii) Unless no other practicable alternative is available, parking areas must be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without backing onto a public street. This requirement does not apply to parking areas consisting of driveways that serve single-family detached dwellings provided the driveway entrance is situated on a local road and not on a collector road or arterial road.

(iii) Parking stalls for the development may not be directly accessible from any public way. Ingress and egress to parking areas must be limited to driveway entrances.

(iv) No loading docks may be located on any street frontage.

9. Terms and conditions. The department may, as a term or condition of approval, establish any reasonable requirement to ensure that the applicant has made adequate provision for traffic movement for all types of traffic, such as requiring the following.

A. Size, time, manner and number limitations. Limitations on the size, time of operation, manner of operation, number of vehicles operating out of or into the development area, and size or configuration and operation of the development as a whole.

B. Appointment of officer. The appointment of a traffic control officer.

C. Driveway restrictions. Restrictions concerning the grade or location of driveways, and provision for the sharing of a driveway access point by two or more properties.

D. Visibility improvement. Installation of traffic warning, speed limit, and directional signs.

E. Signs. Clearing of brush or other obstructions near entrance-ways to insure visibility for adequate sight distances.

F. Frontage roads or turn lanes. Construction of frontage roads or turning lanes.

G. Road and intersection improvements. Improvements (i.e. changes in road access, geometry or operations) to any intersection or road in the vicinity of the proposed development when:

(1) The intersection or road has been determined to be unsafe or to operate at level of service E or F;

(2) The warrants are met for signalization; or

(3) There is inadequate storage lane capacity for turning traffic.

If the required road and intersection improvements are located on municipally owned roads, the applicant must demonstrate that the municipality has authorized them.

H. Schedule link. The development schedule be tied to transportation system improvements.

I. Time limitation upon approval. Approval restricted to those development phases projected to mature within five years of the date of approval.

NOTE: Where approval is restricted to the initial phase or phases of a multi-phase development, an updated and revised traffic study must be submitted to the department for review and approval prior to commencement of subsequent phases. In these cases, monitoring of traffic generated by the initial phase or phases could result in adjusted traffic projections for later phases.

10. Implementation of off-site traffic improvements. Required improvements to roads or intersections in the vicinity of the proposed development must be implemented prior to initial occupancy of the development except as provided in (A), (B) or (C) below:

A. Municipal impact fee. The applicant demonstrates the following:

(1) Impact fee ordinance. The municipality in which improvements are needed has adopted an impact fee ordinance pursuant to 30-A M.R.S.A. § 4354;

(2) Impact fee payment. The applicant has paid or will pay an impact fee pursuant to the ordinance;

(3) Impact fee use. The impact fee will be used to make the improvements required by the department;

(4) MDOT approval. The improvement plan has been reviewed and approved for implementation by the MDOT; and

(5) Schedule. The improvements are scheduled for implementation within three years of the initial occupancy of the development.

B. Non-municipal funding mechanism. The applicant demonstrates the following:

(1) Mechanism established. A non-municipal funding mechanism has been established to apportion the cost of the needed improvements;

(2) Pro-rata share. The applicant has contributed or will contribute a pro-rata share of the cost of the improvements;

(3) Fund sufficient. The amount of the fee, together with fees reasonably expected from other developers and government agencies, will be sufficient to fully fund the improvements;

(4) MDOT approval. The improvement plan has been reviewed and approved for implementation by the MDOT;

(5) Local approvals. The improvement plan has received all necessary local approvals, including funding authorizations; and

(6) Schedule. The improvements are scheduled for implementation within three years of the initial occupancy of the development.

C. **Improvements to be implemented by MDOT**. The applicant demonstrates that the necessary traffic improvements have been identified by the Maine Department of Transportation (MDOT) as improvements which MDOT will be implementing within three years of the initial occupancy of the development.

If the required off-site traffic improvements are not completed within three years as required under (A), (B) and (C) above, the improvement must be implemented by the applicant within four years of the initial occupancy of the development.

AUTHORITY: 38 M.R.S.A. § 341-D(1)

EFFECTIVE DATE: November 1, 1979
Amended: July 23, 1989

EFFECTIVE DATE (ELECTRONIC CONVERSION): May 4, 1996

AMENDED: July 25, 1997

NON-SUBSTANTIVE CORRECTIONS: August 19, 1997 -
adjusted header and footer.

BASIS STATEMENT

This rule is an amendment of Chapter 374 which was originally approved by the Board in October 1979. These revisions were necessary to reflect law changes in the Site Location of Development Act (Site

Law) that will take effect on July 1, 1997. The Site Law changes include the establishment of projects generating 100 or more passenger car equivalents (PCE's) in the peak hour as a type of development. This means that certain projects generating large amounts of traffic, regardless of the project's physical size, require review and approval by the department. Also, other projects requiring Site Law review that generate less than 100 PCE's are no longer subject to traffic review under the traffic movement standard. The law was further amended to limit review of those projects triggering the Site Law solely due to traffic generation to only traffic review. Unallocated law provisions of P.L. 1995 Chapter 704 establish June 30, 1999, as the date sole authority to review traffic is transferred to the Maine Department of Transportation.

These rule amendments modify definitions to reflect the intent of the Site Law changes and establish new limits on what the department will review and how far from the project traffic considerations must be carried. Additionally, the rule establishes a mechanism for holding "scoping" meetings in which state and local officials meet with the developer to discuss and, in many cases, decide on what if any traffic improvements will be necessary. Traffic review for traffic flow within the project's confines (e.g. parking lots) is limited only to its affect on entering/exiting vehicle flow off of the main highways.

The Board of Environmental Protection held a public hearing on December 11, 1996, in Augusta, Maine. The comment period for the record ended at 5:00 P.M. on December 23, 1996.